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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,726	04/27/2001	Hamzeh Karami	JWB-2001-19-P (CIP)	4079

7590 08/26/2003
James W. Badie,
Stoll, Miskin & Badie
The Empire State Building
350 Fifth Avenue, Suite 4710
New York, NY 10118

EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 08/26/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,726

Applicant(s)

KARAMI ET AL.

Examiner

Jacqueline F Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-132 is/are pending in the application.
- 4a) Of the above claim(s) 2-132 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/16/03 have been fully considered but they are not persuasive. The argument that the present invention requires only two male fasteners in the distal end of the vertical portion and four fasteners in the crosspiece is not persuasive. While Ames provides a plurality of fasteners, it still does provide the number of fasteners claimed. The language used in claim 1 does not exclude the presence of other elements.

Applicant argues structural differences between the prior art structure Ames and the present invention, namely the number and locations of the fasteners. However, the language used in the claims does not specify *only* a certain number of fasteners. Therefore, the prior art structure can provide any number of fasteners as long as the required structure is met. Additionally, claim 1 does not specify the fasteners are located on the inner or outer surface, this argument is not commensurate with the scope of the claim.

2. Applicant argues the disclosure is too nebulous to support the basis of rejection regarding the relaxed width being 20-100 percent of the width of the article when fully stretched. Although applicant has not distinctly pointed out the difference between the prior art structure and the present invention, the examiner will attempt to clarify her position. Ames discloses a backsheet constructed of a SELF web, which is well known in the art to provide elastic properties without the use of elastic elements such as elastic

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threads. Stage I and Stage II shown in figure 10 of Ames represent the variance in force versus elongation of the web and merely describes the multi-stage behavior of a web of this structure as compared to a planar web with similar elastic qualities.

However, the end result is a stretchable web that has a percent elongation ranging from 10-100% as described in col. 11, lines 54-61.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ames et al. (US Statutory Invention Registration H1674).

Ames discloses the present invention substantially as claimed. However, Ames does not specifically disclose Ames discloses an absorbent article **20** having a chassis comprising two portions (examiner has designated as Portion 1 and Portion 2, Figure 1), which together define a generally T-shaped configuration when chassis is viewed in a stretched position. The first portion has opposed lateral segments **64/62** adapted to be wrapped around the waist of the wearer and overlap on each other (Figures 1 and 3).

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The second portion P2, has a distal end and a proximal end (examiner has designated as DE and PE) disposed generally vertically relative to the first portion P1. The second portion is adapted to be passed under the crotch of a wearer and folded upwardly and over the overlapped portions.

Ames further discloses one male fastening means **74** on one of said lateral segments and at least one female fastening means **76** on the other lateral segment, such that when the lateral segments overlap each other the male fastening means engages the female fastening means.

Ames further discloses a pair of opposed spaced apart male fastening means **80** at the distal end of the second portion, and a pair of spaced apart, opposed female fastening means **78** at the first portion such that when the lateral segments are wrapped around the waist of a wearer and the second portion is folded over the segments, each of the pair of male fastening means engage a correspondingly aligned one of the pair of female fastening means (Figure 3).

Ames does not specifically disclose a relaxed width (B) between about 20 to 100 percent of the width of the absorbent article when fully stretched. However, Ames discloses the back sheet comprises a strainable web material exhibiting lateral contraction behavior and an available stretch of 10-100%(col. 7, lines 51-55, col. 8, lines 1-12 and lines 42-54, col. 10, lines 32-46, col. 11, lines 52-60). Applicant claims the relaxed width is about 20-100% of the fully stretched width, which indicates the article is capable of stretching from 0-80%. Ames discloses the strainable web is capable of stretching 10-100% depending on the range of elastic response desired. It would have

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been obvious to one of ordinary skill at the time the invention was made to provide the article of Ames with the claimed relaxed width, since discovering an optimum value of a result effective variable involves only routine skill in the art.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Jacqueline F Stephens
Examiner
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August 19, 2003


GLENN K. DAWSON
PRIMARY EXAMINER